

104TH CONGRESS
1ST SESSION

S. 774

To place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans.

IN THE SENATE OF THE UNITED STATES

MAY 9 (legislative day, MAY 1), 1995

Mr. MACK introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SENSE OF THE CONGRESS.**

4 It is the sense of the Congress that economically tar-
5 geted investments violate sections 403 and 404 of the Em-
6 ployee Retirement Income Security Act of 1974 (29
7 U.S.C. 1103 and 1104) because such investments violate
8 the principle of undivided loyalty that a fiduciary owes to

1 employee benefit plan participants and beneficiaries and
2 are made with the intent to benefit persons other than
3 plan participants and beneficiaries and to serve interests
4 other than those of plan participants and beneficiaries.

5 **SEC. 2. PROHIBITIONS ON DEPARTMENT OF LABOR RE-**
6 **GARDING ECONOMICALLY TARGETED IN-**
7 **VESTMENTS.**

8 (a) IN GENERAL.—With respect to the investment by
9 employee benefit plans of plan assets (and the interpreta-
10 tions and decisions by the Department of Labor regarding
11 investment by such plans of plan assets), the application
12 of sections 403 and 404 of the Employee Retirement In-
13 come Security Act of 1974 (29 U.S.C. 1103 and 1104)
14 shall be determined—

15 (1) without regard to Interpretive Bul-
16 letin 94–1, issued by the Secretary of Labor on June
17 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94–
18 1), and without regard to any other regulation, in-
19 terpretive bulletin, advisory opinion, information let-
20 ter, or other determination reaching the same result
21 as, or a result similar to, the result set forth in such
22 Interpretive Bulletin, and

23 (2) with full regard to sections 403 and 404 of
24 such Act.

1 (b) RESTRICTIONS ON ACTIVITIES OF THE DEPART-
2 MENT OF LABOR.—No officer or employee of the Depart-
3 ment of Labor may travel, lecture, or otherwise expend
4 resources available to such Department for the purpose
5 of promoting, directly or indirectly, economically targeted
6 investments.

7 (c) DEFINITIONS.—For purposes of this section—

8 (1) ECONOMICALLY TARGETED INVESTMENT.—
9 The term “economically targeted investment” has
10 the meaning given such term in Interpretive Bulletin
11 94–1, as issued by the Secretary of Labor on June
12 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R.
13 2509.94–1).

14 (2) EMPLOYEE BENEFIT PLAN.—The term
15 “employee benefit plan” means an employee benefit
16 plan within the meaning of section 3(3) of the Em-
17 ployee Retirement Income Security Act of 1974 (29
18 U.S.C. 1002(3)) which is covered under section 4 of
19 such Act (29 U.S.C. 1003).

1 **SEC. 3. PROHIBITION ON FEDERAL AGENCIES AGAINST ES-**
2 **TABLISHING OR MAINTAINING ANY CLEAR-**
3 **INGHOUSE OR OTHER DATABASE RELATING**
4 **TO ECONOMICALLY TARGETED INVEST-**
5 **MENTS.**

6 (a) IN GENERAL.—Part 5 of subtitle B of title I of
7 the Employee Retirement Income Security Act of 1974
8 (29 U.S.C. 1131 et seq.) is amended by adding at the end
9 the following new section:

10 “PROHIBITION ON FEDERAL AGENCIES AGAINST ESTAB-
11 LISHING OR MAINTAINING ANY CLEARINGHOUSE OR
12 OTHER DATABASE RELATING TO ECONOMICALLY
13 TARGETED INVESTMENTS

14 “SEC. 516. (a) IN GENERAL.—No agency or instru-
15 mentality of the Federal Government may establish or
16 maintain, or contract with (or otherwise provide assistance
17 to) any other party to establish or maintain, any clearing-
18 house, database, or other listing—

19 “(1) for the purpose of making available to em-
20 ployee benefit plans information on economically tar-
21 geted investments,

22 “(2) for the purpose of encouraging, or provid-
23 ing assistance to, employee benefit plans or any
24 other party related to an employee benefit plan to
25 undertake or evaluate economically targeted invest-
26 ments, or

1 “(3) for the purpose of identifying economically
 2 targeted investments with respect to which such
 3 agency or instrumentality will withhold from under-
 4 taking enforcement actions relating to employee ben-
 5 efit plans under any otherwise applicable authority
 6 of such agency or instrumentality.

7 “(b) ECONOMICALLY TARGETED INVESTMENT DE-
 8 FINED.—For purposes of this section, the term ‘economi-
 9 cally targeted investment’ has the meaning given such
 10 term in Interpretive Bulletin 94–1, as issued by the Sec-
 11 retary on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R.
 12 2509.94–1).’”.

13 (b) CLERICAL AMENDMENT.—The table of contents
 14 in section 2 of such Act is amended by inserting at the
 15 end of the items relating to part 5 of subtitle B of title
 16 I the following new item:

 “Sec. 516. Prohibition on Federal agencies against establishing or maintaining
 any clearinghouse or other database relating to economically
 targeted investments.”.

17 **SEC. 4. TERMINATION OF CONTRACTS.**

18 The head of each agency and instrumentality of the
 19 Government of the United States shall immediately take
 20 such actions as are necessary and appropriate to terminate
 21 any contract or other arrangement entered into by such
 22 agency or instrumentality which is in violation of the re-
 23 quirements of the provisions of this Act or the amend-
 24 ments made thereby.

1 **SEC. 5. EFFECTIVE DATE**

2 The preceding provisions of this Act (and the amend-
3 ments made thereby) shall take effect on the date of the
4 enactment of this Act.

